

## REMARKS

This Response is submitted in reply to the Office Action dated October 7, 2003. Claims 1, 9, 10, 11, 12, 16, 19, 20, 22, 24 and 26 have been amended. Claims 6, 14, 17, 21, 23 and 25 have been canceled. New Claim 27 has been added. No new matter has been added by any of the amendments made herein.

A Petition for a One Month Extension of time to respond to the Office Action is submitted herewith. A check in the amount of \$196.00 is submitted herewith to cover the cost of the one-month extension and the additional independent claim. Please charge deposit account No. 02-1818 for any insufficiency or to credit any overpayment.

Claims 1 to 26 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,561,908 to Hoke ("*Hoke*"). Applicants respectfully submit that the rejection of Claims 1 to 16 has been overcome or is improper for the following reasons.

Amended Claim 1 is directed to a gaming device having a wager game which includes at least one data storage device. The gaming device also includes at least one primary sound file stored in the data storage device and at least one variant sound file stored in the data storage device where the variation between the primary sound file and the variant sound file is a change in a music variable selected from the group consisting of key, tempo, style, melody, beat, syncopation, notes, mode, scale, chords, pitch, voice, instrument and a jump from one section of a sound recording to a different section of said sound recording. The gaming device also includes at least one speaker and at least one player input device. The gaming device further includes a processor which is in communication with the data storage device, the player input device and the speaker. The processor plays the primary sound file after a predetermined event occurs, plays the variant sound file after the player uses the player input device to cause the player input event associated with the variant sound file to occur, and stops playing the primary sound file at a predetermined point in time after the player causes the player input event to occur. *Hoke* does not disclose, teach or suggest the elements of amended Claim 1.

*Hoke* discloses a gaming device including a metronome system for interfacing sound recordings. The metronome system 100 includes a central processing unit or

CPU 102, a memory device 104 and a sound card 106. (Col. 6, lines 1 to 5). The memory device includes game read-only memory 128 and game random access memory 130. This system is primarily directed to solving the problem involved with interfacing or linking multiple sound recordings. (Col. 1, lines 49 to 55). Specifically, the gaming device of *Hoke* uses the metronome system to interface different sound recordings on any tic of a regular, repeating integral. (Col. 1, lines 57 to 61). The term "interface" means "switching, replacing, combining, supplementing, splicing, overlaying or otherwise partially or wholly joining two or more sound recordings, temporarily or permanently." (Col. 1, lines 61 to 65). The metronome system 100 provides gaming devices with a capacity to "interface, change or switch sound recordings when certain game events occur, or making such change on a code-driven metronome tic." (Col. 3, lines 40 to 44). Thus, *Hoke* is directed to providing a smooth transition between different sound recordings so that the sound recordings virtually appear to include the same beat or at least some of the same beats.

*Hoke* does not disclose providing a primary sound file stored in a data storage device and at least one variant sound file stored in the data storage device where the variant sound file is a musical variation of the primary sound file and where the variation between the primary sound file and the variant sound file is a change in a music variable selected from the group consisting of key, tempo, style, melody, beat, syncopation, notes, mode, scale, chords, pitch, voice, instrument and a jump from one section of a sound recording to a different section of said sound recording. Therefore, *Hoke* does not disclose providing primary sound files after a predetermined event occurs and then playing a variant sound file (which is a variation of the primary sound file) after the player uses a player input device to cause the player input event associated with the variant sound file to occur.

For these reasons, *Hoke* does not disclose the combination of all of the elements of amended Claim 1. Therefore, amended Claim 1 and Claims 2 to 8, which depend from amended Claim 1, are each patentably distinguished over *Hoke* and are in condition for allowance.

Claims 9, 10, 12, 16, 19, 20 and 26 include similar elements to amended Claim 1. Specifically, these claims include a sound file such as a primary sound file and at least one variant sound file which is a variation of that primary sound file. As described above, *Hoke* does not disclose providing at least one variation of the same sound file for different input events when a player uses a player input device. For the same reasons provided for amended Claim 1, Claims 9, 10, 12, 16, 19, 20 and 26, and Claims 13 to 15 which depend from Claim 12, Claims 17 to 18 which depend from Claim 16 and Claim 21 which depends from Claim 20, are each patentably distinguished over *Hoke* and are in condition for allowance.

Claim 11 is directed to a gaming device having a wager game that includes at least one data storage device, at least one primary sound file stored in the data storage device and a plurality of variant sound files stored in the data storage device where each variant sound file is a musical variant of the primary sound file and where the variation between the primary sound file and each of the variant sound files is a change in a music variable selected from the group consisting of: key, tempo, style, melody, beat, syncopation, notes, mode, scale, chords, pitch, voice, instrument and a jump from one section of a sound recording to a different section of said sound recording. The gaming device also includes a plurality of player input events stored in the data storage device where each player input event is associated with one of the variant sound files. The gaming device further includes at least one speaker and at least one player input device. A processor including in the gaming device is an electronic communication with the data storage device, the player input device and the speaker. The processor plays the primary sound file after a predetermined event occurs, plays a first variant sound file after the player uses the player input device to make a first player input, stops playing the primary sound file at a predetermined point in time after the player makes the first player input, plays a second variant sound file after the player uses the player input device to make a second player input and stop displaying the first variant sound file at a predetermined point in time after the player makes the second player input.

*Hoke* does not expressly disclose providing a variant sound file of a primary sound file which is played after the player uses that input device to make an input in a

game where the variation between the primary sound file and each of the variant sound files is a change in a music variable selected from the group consisting of: key, tempo, style, melody, beat, syncopation, notes, mode, scale, chords, pitch, voice, instrument and a jump from one section of a sound recording to a different section of said sound recording. For these reasons, *Hoke* does not disclose the combination all of the elements of amended Claim 11. Therefore, amended Claim 11 is patentably distinguished over *Hoke* and in condition for allowance.

Claims 22 and 24 include similar elements to amended Claim 11. Specifically, Claim 22 includes a plurality of musical recordings in a plurality of musical variations to the musical recordings where each musical variation is associated with one of a plurality of player inputs. Additionally, *Hoke* does not disclose that the variations to the musical recordings include a change in a music variable selected from the group consisting of: key, tempo, style, melody, beat, syncopation, notes, mode, scale, chords, pitch, voice, instrument and a jump from one section of a sound recording to a different section of said sound recording. As described above, *Hoke* does not disclose these elements. Therefore, *Hoke* does not disclose the combination of all of the elements of Claim 22. Thus, Claim 22 is patentably distinguished over *Hoke* and in condition for allowance.

Claim 24 includes a plurality of musical changes to background music where a computer plays the background music at a particular time, enables a player to select a wager option and then plays the musical change associated with the selected wager option. *Hoke* does not disclose providing background music or musical changes to the background music which are played based on an input such as a wager option in a game, where each musical change is a change in a musical variable selected from the group consisting of: key, tempo, style, melody, beat, syncopation, notes, mode, scale, chords, pitch, voice, instrument and a jump from one section of a sound recording to a different section of said sound recording. Therefore, *Hoke* does not disclose the combination of all of the elements of Claim 24. For these reasons, Claim 24 is patentably distinguished over *Hoke* and is in condition for allowance.

New Claim 27 is directed to a gaming device including a game operable upon a wager by a player, at least one data storage device, at least one primary sound file

stored in the data storage device and a plurality of variant sound files stored in the data storage device, where each variant sound file is a variant of the primary sound file. The variation between the primary sound file and each of the variant sound files is a change in a music variable selected from the group consisting of: key, tempo, style, melody, beat, syncopation, notes, mode, scale, chords, pitch, voice, instrument and a jump from one section of a sound recording to a different section of said sound recording. The gaming device also includes a plurality of player input events stored in the data storage device, where each player input event associated with one of the variant sound files, and a plurality of game events stored in the data storage device, where each game event associated with one of the different variant sound files. The game events include at least one of: an attract mode, an idle mode, a normal mode, a game play mode, a bonus mode, a cashout mode, a credit roll-up mode, a jackpot mode, a hand pay mode and a player tracking mode. The gaming device further includes at least one speaker, at least one player input device and a processor. The processor is operable with the data storage device, the player input device and the speaker to (a) play the primary sound file after a game event occurs; (b) play a first variant sound file after the player uses the player input device to make a first player input; (c) stop playing the primary sound file at a predetermined point in time after the player makes said first player input; (d) play a second variant sound file after the player uses the player input device to make a second player input; and (e) stop playing the first variant sound file at a predetermined point in time after the player makes the second player input.

New Claim 27 includes certain similar elements to the other independent claims. Additionally, Claim 27 includes a plurality of game events which when triggered or initiated in the game, causes a primary sound file to be played. The game events include at least one of: an attract mode, an idle mode, a normal mode, a game play mode, a bonus mode, a cashout mode, a credit roll-up mode, a jackpot mode, a hand pay mode and a player tracking mode. Therefore, for the reasons described above, *Hoke* does not disclose the combination of all of the elements of new Claim 27. Thus, new Claim 27 is patentably distinguished over *Hoke* and in condition for allowance.

An earnest endeavor has been made to place this application in condition for formal allowance and in the absence of more pertinent art, such action is courteously solicited. If the Examiner has any questions regarding this Response, Applicants respectfully request that the Examiner contact the undersigned.

Respectfully submitted,

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